



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,690	06/22/2001	David Gordon Stevenson	33415	6126

116 7590 04/10/2003
PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114-1484

EXAMINER
CINTINS, IVARS C

ART UNIT	PAPER NUMBER
1724	9

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action SummaryApplication No.
09/787,690

Applicant(s)

Stevenson

Examiner

Ivars Cintins

Art Unit

1724

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-23 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are accepted or objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: approved disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachments(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-848) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) Other: _____

Art Unit: 1724

The drawings are objected to under 37 CFR 1.83(a) because they do not appear to show the corrugated member recited in claims 7, 9, 10, 12 and 14. The drawings must show every feature of the invention specified in the claims. Therefore, the corrugated member recited in the above noted claims must be shown or this feature must be canceled from the claims.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Applicant is cautioned that any proposed drawing correction or corrected drawings may not contain new matter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for

the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-5 and 18-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Padera et al. (U.S. Patent No. 5,066,393). See col. 3, line 22.

Claims 1, 2, 7, 9, 10, 12, 14 and 18-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shea et al. (U.S. Patent No. 5,332,497). See Fig. 1; and col. 5, lines 44-46.

Claims 1-3 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Handtmann (U.S. Patent No. 5,445,745). The reference discloses a member with a plurality of slots having a width of 0.01 to 0.5 mm (see col. 4, lines 23-25), which slots can be formed by a laser (col. 4, lines 26-27); and this is all that is required by claims 1-3 and 16. Applicant should note that the intended use of a device (i.e. for admitting backwash fluid to a filter medium of a filter bed) is not a structural limitation, and hence cannot be relied upon to patentably distinguish apparatus claims. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Art Unit: 1724

Claims 1-3 and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebrun et al. (U.S. Patent No. 4,848,992). The reference discloses a device having all of the recited structural features (see col. 6, lines 44, 49-50 and 61-65); and therefore, this device is inherently capable of producing all of the recited functions.

Claims 1, 2, 6, 8, 11, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fether (U.S. Patent No. 3,177,945). The reference discloses a device having all of the recited structural features (see Fig. 1); and therefore, this device is inherently capable of producing all of the recited functions.

Claims 1-6, 8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyce et al. (U.S. Patent No. 6,183,637). The reference discloses a device having all of the recited structural features (see col. 6, lines 57-63; and col. 7, lines 52-59); and therefore, this device is inherently capable of producing all of the recited functions.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the

Art Unit: 1724

prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6, 8, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padera et al. in view of German Patent No. 25 34 430. Padera et al. discloses the claimed invention with the exception of the direction (i.e. longitudinal) of the slots with respect to the tube. The German patent discloses a similar granular media filter bed, and shows (see Fig. 1) a tubular fluid distributor having longitudinally directed slots. It would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the slots of Padera et al. in the manner suggested by the German patent, since the longitudinally directed slots of this secondary reference are capable of distributing a fluid through the filter bed of the primary reference in substantially the same manner as the circumferentially directed slots of this primary reference, to produce substantially the same results.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padera et al. or Shea et al., in view of Handtmann or German Patent No. 26 00 897. Each of the primary references discloses the claimed invention with the exception of the type of slots employed (i.e. laser formed). Handtmann and

Art Unit: 1724

German Patent No. 26 00 897 each teach forming slots in a fluid distributor with a laser. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the slots in the device of Padera et al. or Shea et al. with a laser, as suggested by Handtmann or German Patent No. 26 00 897, since these laser generated slots are capable of distributing a fluid through the filter bed of either primary reference in substantially the same manner as the slots disclosed therein, to produce substantially the same results.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padera et al. or Shea et al., taken with Handtmann or German Patent No. 26 00 897 as applied above, and further in view of Lebrun et al. Each of the modified primary references discloses the claimed invention with the exception of the material from which the fluid distributor member is constructed. Lebrun et al. discloses forming a fluid distributor from stainless steel (see col. 6, line 64); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the fluid distributors of either modified primary reference from stainless steel, in order to obtain the advantages associated with this material (i.e. strength, resistance to corrosion, etc.) for the system of either modified primary reference.

Art Unit: 1724

Meyer (U.S. Patent No. 2,743,230) and Emrie (U.S. Patent No. 4,331,542) show similar fluid distributors for granular filtration systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Ivars Cintins
Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
April 4, 2003